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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 09/838,219 | 04/20/2001 | Akinari Takagi | 2369.12211 | 9362 |
| 5514 | 7590 | 12/03/2003 | EXAMINER | |
| FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112 | | | SANDERS JR, JOHN R | |
| | | ART UNIT | | PAPER NUMBER |
| | | | | 3737 |

DATE MAILED: 12/03/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|-----------------|-------------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 09/838,219 | TAKAGI ET AL. <i>CH</i> |
| | Examiner | Art Unit |
| | John R. Sanders | 3737 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 17 September 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1,2,4-34,36 and 37 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 14-27,30-34,36 and 37 is/are allowed.
- 6) Claim(s) 1 and 2 is/are rejected.
- 7) Claim(s) 4-13,28 and 29 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 20 April 2001 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 - a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) Interview Summary (PTO-413) Paper No(s) _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after allowance or after an Office action under *Ex Parte Quayle*, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935). Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on 17 September 2003 has been entered.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

3. **Claims 1 and 2 are rejected under 35 U.S.C. 102(a) as being anticipated by Foreign Patent Application No. DE 10047237 to Eberl et al.**

4. For purposes of this rejection, the Examiner will refer to U.S. Patent Application Publication No. 2002/0036750 to Eberl et al. as an English translation of DE 10047237, which is claimed as a foreign priority document of US 2002/0036750.

5. Eberl discloses a system wherein a display optical system comprising a projection optical system projects light, containing image information, through the entrance pupil onto the retina of the eye (paragraphs 5-61). An eye tracking arrangement provides pupil position information

used for changing the incident image to correspond to the changes in eye gaze direction (paragraphs 86-87).

6. With respect to the limitation of changing a position of an incident beam on a plane of the entrance pupil of the eye, it is inherent in eye tracking that the incident beam be changed to pass through the plane of the entrance pupil once a change in the position of the entrance pupil has been detected. It is also inherent that an incident beam be smaller than the entrance pupil of the eye for the image information to be projected onto the retina.

Allowable Subject Matter

7. Claims 14-27, 30-34, 36 and 37 are allowed.

8. Claims 4-13, 28 and 29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. The Examiner notes that the inclusion of limitations regarding the introduction of parallax images into the single eye into the rejected independent claims would obviate the current rejection of those claims. The broadest interpretation of the limitations of claims 1 and 2, directed specifically to the plane of the entrance pupil and the size of the incident beam, are inherent to the art involving eye tracking and projection systems. Limitations regarding the relative position of the incident beam on the entrance pupil specifically in relation to the forming of parallax images would be required to render the aforementioned broad limitations not inherent or obvious over the prior art.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Miyazaki et al. (US 5,703,637) describes a retinal projection system with eye tracking.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John R. Sanders whose telephone number is (703) 305-4974. The examiner can normally be reached on M-F 8:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dennis W. Ruhl can be reached on (703) 308-2262. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.


jrs

Eleni Mantua Mercader
ELENI MANTUA MERCADER
PRIMARY EXAMINER 3737